

SENATE BILL No. 463

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-33-71-69; IC 36-1-8-10; IC 36-8-3.5-6; IC 36-9.

Synopsis: Party affiliation determinations. Provides that if the law concerning political subdivisions: (1) conditions a board appointment upon the appointee's political affiliation; or (2) restricts the number of board members who may be from the same political party; an appointee must be certified as a member of a particular party by the party's county chairman for the county in which the appointee resides. Makes the requirement of certification by a party's county chairman applicable to police and fire merit commissions, boards of sanitary commissioners, and boards of trustees of water departments. (Current law provides exceptions to the general party affiliation determination process for appointees to these boards and commissions.) Amends the law to maintain the determination of party affiliation by vote in the most recent primary election or by the appointee's claim of party affiliation for the appointment of magistrates of a St. Joseph County court. Repeals a statute regarding political affiliation of a person appointed to the board of trustees of a water department.

Effective: July 1, 2009.

Waterman

January 14, 2009, read first time and referred to Committee on Local Government.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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SENATE BILL No. 463

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 33-33-71-69, AS AMENDED BY P.L.127-2008,
2 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 69. (a) The court may appoint two (2) full-time
4 magistrates under IC 33-23-5 to serve the court using the selection
5 method provided by ~~IC 36-1-8-10(b)(1) or IC 36-1-8-10(b)(2)~~. in
6 **subsection (b)**.
7 **(b)** Not more than one (1) of the magistrates appointed under this
8 section may be a member of the same political party. **At the time of an**
9 **appointment, one (1) of the following must apply to the appointee:**
10 **(1) The most recent primary election in which the appointee**
11 **voted was a primary election held by the party with which the**
12 **appointee claims affiliation.**
13 **(2) If the appointee has never voted in a primary election, the**
14 **appointee claims a party affiliation.**
15 ~~(b)~~ **(c)** A magistrate continues in office until removed by the judges
16 of the court.
17 SECTION 2. IC 36-1-8-10 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) As used in this section, "board" means an administration, an agency, an authority, a board, a bureau, a commission, a committee, a council, a department, a division, an institution, an office, a service, or another similarly designated body of a political subdivision.

(b) Whenever a law or political subdivision's resolution requires that an appointment to a board be conditioned upon the political affiliation of the appointee, or that the membership of a board not exceed a stated number of members from the same political party, at the time of an appointment, ~~one (1) of the following must apply to the appointee:~~

~~(1) The most recent primary election in which the appointee voted was a primary election held by the party with which the appointee claims affiliation;~~

~~(2) If the appointee has never voted in a primary election, the appointee claims a party affiliation;~~

~~(3) the appointee is must be certified as a member of that party by the party's county chairman for the county in which the appointee resides.~~

(c) Notwithstanding any other law, if the term of an appointed member of a board expires and the appointing authority does not make an appointment to fill the vacancy, the member may continue to serve on the board for only sixty (60) days after the expiration date of the member's term.

SECTION 3. IC 36-8-3.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) A merit commission consisting of five (5) commissioners shall be established for each department of a unit having a merit system. The commissioners are:

(1) two (2) persons, who must be of different political parties, appointed by the unit's executive;

(2) one (1) person appointed by the unit's legislative body; and

(3) two (2) persons, who must be of different political parties, elected by the active members of the department.

~~Notwithstanding IC 36-1-8-10, political affiliation shall be determined through the voters' registration records of the three (3) most recent primary elections:~~

(b) Each commissioner must have been a legal resident of the unit for three (3) consecutive years immediately preceding the commissioner's term and must be a person of good moral character. The legislative body may, upon the recommendation of the safety board, determine a per diem to be paid to each commissioner for each day of actual service for the commission. A commissioner must be at

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1 least twenty-one (21) years of age. A commissioner may not be an
 2 active member of a police or fire department or agency and not more
 3 than two (2) of the commissioners may be past members of a police or
 4 fire department or agency. In addition, a person may not serve on the
 5 commission if the person receives any remuneration as salary from the
 6 unit.

7 (c) Each commissioner shall take an oath of office to
 8 conscientiously discharge the commissioner's duties. A signed copy of
 9 the oath shall be filed with the safety board.

10 SECTION 4. IC 36-9-25-3, AS AMENDED BY P.L.17-2007,
 11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2009]: Sec. 3. (a) A department of public sanitation is
 13 established as an executive department of the municipality. However,
 14 in the case of a district described in subsection (b)(2), the department
 15 is established as an executive department of each municipality in the
 16 district.

17 (b) The department is under the control of a board of sanitary
 18 commissioners, which is composed as follows:

19 (1) If the department is established under section 1(a) of this
 20 chapter, the board consists of not less than three (3) but not more
 21 than five (5) commissioners. All of the commissioners shall be
 22 appointed by the municipal executive, unless one (1)
 23 commissioner is the municipal engineer. Not more than two (2)
 24 of the commissioners may be of the same political party, unless
 25 the board consists of five (5) commissioners, in which case not
 26 more than three (3) may be of the same political party.

27 (2) Notwithstanding subdivision (1), if the department is
 28 established under section 1(a) of this chapter and the district
 29 contains at least one (1) city having a population of less than one
 30 hundred thousand (100,000) and at least one (1) town, the board
 31 consists of one (1) commissioner from each municipality in the
 32 district. The executive of each of those municipalities shall
 33 appoint one (1) commissioner. If after all appointments are made
 34 the board has fewer than five (5) commissioners, the executive of
 35 the municipality with the largest population shall appoint the
 36 number of additional commissioners needed to bring the total to
 37 five (5). Not more than three (3) of the commissioners may be of
 38 the same political party.

39 (3) If the department is established under section 1(b) of this
 40 chapter, the board consists of not less than three (3)
 41 commissioners but not more than five (5) commissioners. One (1)
 42 commissioner is the city civil engineer. All other commissioners

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shall be appointed by the city executive. Not more than two (2) of the commissioners may be of the same political party, unless the board consists of five (5) commissioners, in which case not more than three (3) of the commissioners may be of the same political party. However, if the department is located in a county having a population of:

(A) more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000);

(B) more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000);

(C) more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000); or

(D) more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000);

and the city does not have a city civil engineer, one (1) of the commissioners must be a licensed engineer, appointed by the executive, with at least five (5) years experience in civil or sanitary engineering. In addition, in such a city the commissioners may not hold another public office. Not more than two (2) of the commissioners may be of the same political party, unless the board consists of five (5) commissioners, in which case not more than three (3) of the commissioners may be of the same political party.

(c) Before beginning the commissioner's duties, each commissioner shall take and subscribe the usual oath of office. The oath shall be endorsed upon the certificate of appointment and filed with the municipal clerk.

(d) Each commissioner shall also execute a bond in the penal sum of five thousand dollars (\$5,000) payable to the state and conditioned upon the faithful performance of the commissioner's duties and the faithful accounting for all money and property that comes under the commissioner's control. The bond must be approved by the municipal executive.

(e) The appointed commissioners are entitled to a salary of not less than three thousand six hundred dollars (\$3,600) a year during actual construction and not less than six hundred dollars (\$600) a year in other years.

(f) Notwithstanding IC 36-1-8-10; whenever this section requires that the membership of the board of sanitary commissioners not exceed a stated number of members from the same political party, at the time of appointment the appointee must:

(1) have voted in the two (2) most recent primary elections held

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1 by the party with which the appointee claims affiliation; or
2 (2) if the appointee did not vote in the two (2) most recent
3 primary elections or only voted in one (1) of those elections; be
4 certified as a member of the party with which the appointee
5 claims affiliation by that party's county chairman for the county
6 in which the appointee resides.

7 SECTION 5. IC 36-9-35-2 IS REPEALED [EFFECTIVE JULY 1,
8 2009].

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